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**U.S. Department of Justice**
Office of Justice Programs
*Office of Juvenile Justice and Delinquency Prevention*
**Juvenile Justice Bulletin**

# OJJDP Update on Research

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Reprinted from NIJ Reports SNI 214 May/June 1989

## The Child Victim As a Witness

The testimony of a child victim is often crucial for the successful prosecution of individuals who commit crimes against children. When such crimes are disclosed, however, the young victims are thrust into a bewildering series of events that can seriously impair their ability to perform as witnesses.

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is funding a research and development project in four jurisdictions—Polk County (Des Moines), Iowa; Ramsey County (St. Paul), Minnesota; Erie County (Buffalo), New York; and San Diego County, California—to improve the way the judicial system treats child victims. Through this project, the Office hopes to provide carefully tested approaches that can be used to change prosecution policies and practices so that they become more supportive of child victims and witnesses.

### What happens when a child becomes a witness?

Public outrage over child sexual abuse cases in recent years has led to a demand that more child abuse offenders be prosecuted in criminal court. Even intrafamily abuse cases, which traditionally have been handled by the protective services and juvenile justice systems, are finding their way into the criminal justice system.

But the influx of such cases into the criminal courts has raised a host of unsettling issues. Chief among them is the risk that in trying to protect the child from further abuse, the judicial system may inadvertently compound the child's trauma.

The criminal justice system is often badly suited to address the emotional, psychological, and physical needs of children. When they are brought into court as both victim and key witness for the prosecution, child victims are drawn into legal proceedings that may seem confusing, meaningless, hostile, and frightening.

Some experts believe that court intervention may have a number of damaging effects on child victims. It may intensify existing problems, delay the resolution of symptoms resulting from the abuse, or create a new set of stressful circumstances. Sources of stress that can be attributed to the judicial system include recounting the incident (perhaps a dozen times or more to as many different people and in various formal court settings), enduring numerous delays, confronting the perpetrator, and being cross-examined.

Other experts contend, however, that participating in the judicial process can be therapeutic for some children, under certain conditions. They argue that testifying, in particular, may have a

**From the Administrator**

Testifying in court can be a traumatic experience for any witness or victim of a crime. But when the witness is a child, the experience can be devastating. This is especially true in cases involving missing and exploited children or when a child has been sexually or physically abused. Yet a child's testimony is critical if the criminal justice system is to successfully hold offenders accountable for their crime against children.

Prosecutors who work with child victims have to walk a delicate tightrope, balancing the need for accurate testimony with the need to make sure our judicial system does not further harm a young victim.

To make this task easier, OJJDP is working with four jurisdictions on a research and development project designed to help lessen the court trauma for child witnesses and to increase the successful prosecution of offenders.

Through this project, we are working with law enforcement, social service agencies, the courts, and other criminal justice agencies to determine which court strategies work best when handling child victims.

Although the project is not yet completed, I believe it is important to share information and keep criminal and juvenile justice professionals up to date on current research projects.

This report summarizes the purposes of this project, ways it can help local and State jurisdictions improve prosecution of child abuse and sexual exploitation cases, and strategies the four sites are implementing. This research can play a vital role in helping the criminal justice system improve the treatment of child victims.

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cathartic effect and confirm a child's sense of justice.

The controversy surrounding child witnesses rests on this basic dilemma: How can prosecutors most effectively prosecute child sexual abuse cases without imposing additional trauma on the child victims?

## Assessing what we know about the treatment of child witnesses

In recent years, courts have devised new practices to avoid revictimizing children when they become witnesses. These practices are aimed at:

- Expediting case processing.
- Providing "people support" to child victims.
- Reducing unnecessary contact of the child with the system.
- Instituting court procedures that do not frighten child victims.
- Enhancing case development.

In recent years courts have begun employing both procedural and evidentiary innovations when dealing with child victims. Procedural innovations, which apply to all child victims from the time their cases are made known to authorities, include:

- Coordinating investigative interviews.
- Using dolls, props, or artwork to help the child communicate.
- Assigning an advocate or guardian ad litem to support the child.
- Accelerating case processing.
- Coordinating criminal and civil abuse and neglect proceedings (in intrafamilial cases).

Evidentiary innovations, which apply to ways of obtaining children's testimony, include use of videotaped and closed-circuit testimony; elimination of special competence requirements; exclusion of spectators from the courtroom; and creation of special hearsay exceptions.

Case law addressing the constitutional and due process issues surrounding these techniques is emerging. Two court decisions (*Coy v. Iowa* and *Globe Newspaper Co. v. Superior Court*) appear to limit the use of certain innovative courtroom techniques. *Coy v. Iowa* concerned using a one-way screen to protect child witnesses from a direct view of the defendant, and the *Globe Newspaper* case concerned excluding public spectators from the courtroom. Essentially, the court has ruled that before such techniques can be used, prosecutors must show that the child witness will "suffer emotionally" (as defined by statute) if made to testify in a traditional courtroom setting. In other words, the decision to use innovative courtroom techniques must be made on a case-by-case basis.

Prosecutors and child advocates continue to search for ways to alleviate the stress engendered by criminal proceedings. Experimental research has an important role to play in that search, and researchers have already begun to explore the impact of court procedures on children and on case outcomes. But most studies so far have been conducted in a single site or a small geographical area, and their general applicability is limited.

## Goals of OJJDP's study

The purpose of OJJDP's Child Victim as a Witness program is to provide tested evidentiary and procedural techniques that criminal justice and child protection agencies can use to prevent further traumatization of child witnesses.

The project is designed to answer a number of research questions, among them:

- What characteristics of a child, family, incident, community, and legal environment influence the decision to prosecute child sexual abuse cases?
- How do these characteristics influence the decision to use certain evidentiary or procedural techniques in court?
- How does the availability of innovative techniques influence the decision to prosecute child sexual abuse cases?
- What is the impact of innovative techniques on the outcome of case prosecution and on the child's emotional trauma?

Now in its second year, this 3-year project is a collaborative effort by a research team drawn from three organizations: the Education Development Center, Inc., (EDC) of Newton, Massachusetts; the University of North Carolina; and the National District Attorneys Association of Alexandria, Virginia.

The research team has designed a study that will:

1. Examine a wide range of techniques for investigating and prosecuting child sexual abuse cases.
2. Empirically assess the circumstances under which alternative techniques are used.
3. Evaluate how well these innovations reduce victim trauma and increase successful prosecution of offenders.

In each of the four sites participating in the project, the researchers have formed a multidisciplinary program team including prosecutors and representatives of the courts, law enforcement and social services, medical and mental health communities, and victim advocacy groups. During Phase I of the study, the research team worked with the program team to look at current policies and practices in each jurisdiction, identify areas needing improvement, and select prosecutorial strategies to study.

From local criminal justice and child protection agencies in each site, the research team also gathered data on child sexual abuse cases eligible for this project that had been referred for prosecution during a 1-year baseline period.

Using a comprehensive information form, the team reviewed prosecutor files and police and court records to reconstruct case data. These data will allow the researchers to track the victims' experiences as their cases were investigated and adjudicated prior to the start of the project.

Phase II of the study is now under way. The research team is drawing a prospective sample of as many as 200 cases that are referred for prosecution in each site. In addition to the type of information gathered in Phase I, the Phase II sample will include direct assessments of child trauma. Each child in the sample whose parents agree to participate will be tested twice: first at the time the abuse report is referred for prosecution, and again 9 months later.

In light of recent case law, the program teams have selected interventions that focus on procedural rather than evidentiary innovation. The following are some of the new strategies the sites are implementing:

• **Erie County, New York**. The prosecutor's office and key law enforcement agencies have made procedural changes that should result in children not having to swear out arrest complaints and testify at preliminary hearings. The jurisdiction is working out a plan that encourages the police and sheriff's departments to contact the district attorney's office first rather than make an abuse arrest—unless it is an emergency. Prosecutors can then prepare a case to present to the grand jury, eliminating the need for child victims to repeatedly tell their story prior to the actual trial.

This policy differs from the long-standing one in Erie County whereby in responding to a call of child abuse, the police department or sheriff's office would take the child in a squad car to the police station to make a statement. Following this, the child would be taken to the city judge, who would rule on the child's competency. A child ruled competent would then swear out an arrest warrant and be taken to a preliminary hearing, where once again, he or she would have to show competency. The case would then go to the grand jury.

• **San Diego County, California.** Child witnesses attend "court school" to prepare them for testifying at preliminary hearings, and if necessary, at trial. The court school works with the children in small groups to show them what a courtroom looks like, explain the terminology, and describe the children's role in the court proceeding. The "court school" concept formalizes a process that has been handled informally by other jurisdictions.

• In **Polk County, Iowa**, a new multidisciplinary team was established to review nonfamilial sexual abuse cases, in hopes of improving the services available to child victims of this form of abuse. A multidisciplinary team has been in place for intrafamilial cases since 1980. The team includes representatives from the prosecutor's office, law enforcement, social services, the local hospital staff, the juvenile correction/probation department, and the Youth Law Center (which provides guardians ad litem, adults who are appointed by the court to represent the best interest of the child). The team review is designed to obtain needed services for the child victims, improve coordination of services to the child, and enhance prosecution of the case.

• **Ramsey County, Minnesota**. Victim advocates in the County Attorney's Office are flagging cases requiring expedited disposition. And the St. Paul Police Department is detailing one investigator to the child protection agency to review incoming abuse reports for cases that warrant criminal justice intervention.

## Publication of findings

In Phase III of the study, the research team will analyze the findings and develop a range of publications and other materials targeted to specific professional, academic, policymaking and practitioner audiences. For example, special articles or bulletins will help prosecutors apply the research findings to their daily practice. Training materials for judges will show how to modify the courtroom to alleviate a child's trauma without adversely affecting the case or risking legal challenge.

## Project purpose

When a child becomes not only a victim of abuse but a witness in court, it is vital for the judicial system to find appropriate and considerate ways of treating the child. Yet at the same time, prosecutors must balance the needs of the child victims with effective prosecution. In funding the Child Victim as a Witness Research and Development Program, OJJDP is taking a significant step toward achieving that delicate balance.

### For More Information

For further information about the Child Victim as a Witness Research Project, and forthcoming publications, contact:

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For more information on this topic, contact:

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The Assistant Attorney General, Office of Justice Programs, coordinates the activities of the following program Offices and Bureaus: the Bureau of Justice Statistics, National Institute of Justice, Bureau of Justice Assistance, Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime.

NCJ 118315

**U.S. Department of Justice**

Office of Justice Programs

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*Washington, D C. 20531*

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